

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**KEVIN WYLES**

**PLAINTIFF**

**v.**

**CASE NO. 4:19-CV-00708-BSM**

**LUCAS EMBERTON, *et al.***

**DEFENDANTS**

**ORDER**

Kevin Wyles's complaint [Doc. No. 2] is dismissed with prejudice. His lawsuit was stayed and he was instructed to move to reopen it within sixty days of the final disposition of the criminal charges that were pending against him in state court. Wyles pled guilty to his state criminal charges on February 25, 2020 but failed to move to reopen. *See State v. Wyles*, 71CR-19-213 (Sentencing Order Feb. 28, 2020). Moreover, Wyles's damages claims are now barred. *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994); *Newmy v. Johnson*, 758 F.3d 1008, 1011-12 (8th Cir. 2014). To the extent that he seeks release from incarceration, that remedy is not available. *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973). It is recommended that this dismissal count as a "strike" under 28 U.S.C. section 1915(g), and an *in forma pauperis* appeal would not be taken in good faith.

IT IS SO ORDERED this 13th day of January, 2022.

  
UNITED STATES DISTRICT JUDGE